

Torres Strait Island
REGIONAL COUNCIL

AGENDA

CULTURE, ARTS AND HERITAGE COMMITTEE

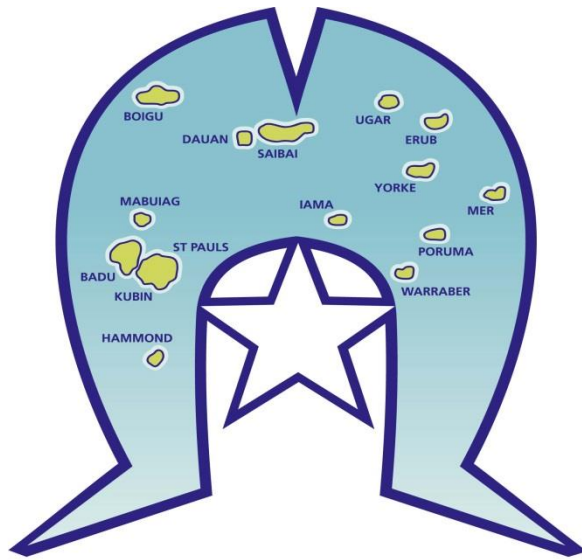
Date: 12th February 2021

Time: 1:00pm to 4:00pm

Venue: VMR #7 – 02 992 165 401

Agenda

1. Welcome (Chair)
2. Opening Prayer
3. Apologies
4. Conflict of Interest (COI)/ Material Personal Interest (MPI) Declaration
5. Confirmation of previous minutes – 2 November 2020
6. Action Items
7. Terms of Reference Discussion
8. Trustee Policy Review
9. Meeting Dates for 2021
 - 25th June 2021
 - 27th August 2021
 - 29th October 2021
10. General/ Other Business (on notice)
11. Next meeting date – 25th June 2021
12. Closing Prayer



Torres Strait Island
REGIONAL COUNCIL

MINUTES

CULTURE, ART, LAND AND HERITAGE COMMITTEE

Date: 4th November 2020

Time: 1:16am to 2:13pm

Venue: VMR #8 – 02 9916 5402

Present

Cr Aven Noah (Chair) – Division 15 – Mer
Cr Torenzo Elisala – Division 2 – Dauan
Kathy Cochran – Secretariat Officer

1. Welcome (Chair)

Cr Noah welcomed everyone to the meeting and thanked them for their attendance.

2. Opening Prayer

Cr Noah opened the meeting in prayer.

3. Apologies

- Cr Nona – Division 5 – Badu

The apology of Cr Nona is accepted. All in favour.

4. Conflict of Interest (COI) Prescribed and Declarable

Cr Noah made the following declaration;

- He is a staff member of Mer Ged Kem Le

Cr Elisala made the following declaration;

- He is a Director and the Secretary of Dauan PBC.

5. Terms of Reference Discussion

Cr Noah and the Committee walks through the Terms of Reference for the Culture, Arts, Land and Heritage Standing Committee.

ACTION: SO to correct the name of the Committee to include Land in the name.

Both the Chair and Cr Elisala is happy with the Terms of Reference however Cr Elisala mentioned to develop each individual community cultural protocols as they differ from island to island.

ACTION: Provide cultural advice and assistance in consultation with PBC and each community in the development of individual island protocols and processes.

ACTION: Add the first names of the Councillors on the committee in the Terms of Reference.

6. Standing Agenda Items Discussion

No standing agenda item. Chair asked Secretariat to explain this Agenda topic for the benefit of the Committee.

7. Meeting Dates for 2021

Committee had a brief discussion regarding the dates and decided to wait until the dates of the 2021 Council Ordinary Meeting were set and known before setting the dates for their quarterly meeting for 2021.

8. General/ Other Business (on notice)

Nil

9. Next meeting date

To be advised.

10. Closing Prayer

Cr Noah thanked everyone and closed the meeting.

TORRES STRAIT ISLAND REGIONAL COUNCIL

TRUSTEE REPORT

ORDINARY MEETING

DATE: February 2020
SUBJECT ITEM: Policy review: Trustee Policy
AUTHOR: Julia Maurus, Manager Legal Services
PRESENTER: Peter Krebs, Senior Legal Counsel

RECOMMENDATION

- 1. That the Trustee endorse the updated PO19 Trustee Policy, as presented.*
- 2. That the Trustee request the Department of Resources proceed with community consultation for the proposed Ugar land transfer and Saibai land transfer, and assist the Department as required to progress the land transfers.*

PURPOSE

The purpose of this report is to provide the new Council with an opportunity to review the Trustee Policy.

BACKGROUND

Council's Trustee Policy was originally adopted on 15 November 2018.

The updated Trustee Policy was endorsed by Council resolution in June 2019 (**Attachment 1**).

32. 5:55pm – 5:58pm TRUSTEE – LEGAL – Trustee Policy Update

MLS spoke to the report; the purpose of the report is to present to Council, for endorsement, policies in the Legal Services area of responsibility that are due for review.

The following changes are recommended to bring this Policy up-to-date:

1. Paragraph 4(e): Amend to reflect the fact that where a template Infrastructure and Housing ILUA has been registered for the relevant community and applies to the relevant future act, Council must comply with that ILUA process. Council does not have the discretion, under the ILUA, to use an alternative future act validation process (such as section 24KA), unless Council first follows the ILUA process and the PBC does not provide its consent under the ILUA process.

2. Paragraph 9(c):

a. Update to reflect the November 2018 delegation to the CEO to sign off on documents necessary to give effect to Katter leases.

b. Update to include the decision-making process for the surrender of a Katter lease (which is proposed to be the same as for the transfer of a Katter lease).

Legal recommends setting a review date of 30 June 2021 for this Policy. However, if significant trustee policy decisions are made in the meantime, the Policy can be reviewed and updated earlier than that.

RESOLUTION:

Moved: Cr Nona; *Second:* Cr Akiba

That Council endorse the updated PO19 Trustee Policy, as presented, except for Hammond Island which is exempt.

MOTION CARRIED

The reference in the resolution to Hammond Island being “exempt” is in relation to the template Infrastructure and Housing ILUA, which does not apply at Hammond Island because there is no native title determination to date and therefore no PBC to opt in to the template ILUA.

OFFICER COMMENT

The proposed updated Trustee Policy is included as **Attachment 2** in mark-up. The proposed updates are as follows:

1. References to Mer PBC and Badu PBC in the introductory statement (paragraph 1), as directed by Council at the November 2020 workshop.

2. Paragraph 9 updated to include steps required to resolve a Katter lease entitlement, house prices for all types of leases, and steps required for a 99-year home-ownership lease.
3. For Katter leases, it is proposed to remove the delegated authority for the CEO to execute documents to recommend the grant of a Katter lease (paragraph 9(e)). Since November 2018, the CEO has been signing off on LHA Advice & Recommendation Reports in consultation with the Mayor and the Divisional Councillor. However, in late 2020 the Trustee directed in relation to delegations that it wishes to reserve all land-related decision-making to the Council level. The November 2018 delegation would be inconsistent with the Trustee's direction and should therefore be removed, unless the Trustee explicitly decides to retain it. The proposed change to the Policy means that a Trustee resolution will be required for TSIRC to endorse the proposed grant of each new Katter lease on TSIRC DOGIT land.
4. Paragraph 10 updated to include further details of the land transfer process. The Department of Resources has provided a paper on land transfers, included as **Attachment 3**.
5. The signatory and the procedural cross-references have been updated.

Legal recommends setting a review date of 30 June 2022 for this Policy. However, if significant trustee policy decisions are made in the meantime, the Policy can be reviewed and updated earlier than that.

There is currently a Supreme Court legal proceeding underway that involves a community member (Alonza Ahwang) challenging the trustee's decision-making process (for St Pauls). When that legal proceeding concludes, Legal Services will consider whether any changes to the Trustee Policy are required.

The proposed changes to paragraph 9 (lease-making process) are consistent with the Trustee process used for Alonza Ahwang's lease application at St Pauls and are therefore not considered controversial in the context of the Supreme Court legal proceeding.

CONSULTATION

- Legal Services Division
- Mayor
- CEO

LINKS WITH STRATEGIC PLANS

TSIRC Corporate Plan 2020–2025

Delivery Pillar: Sustainability

Outcome 8: We manage council affairs responsibly for the benefit of our communities

- Effective management of DOGIT land as a trustee

STATUTORY REQUIREMENTS

Local Government Act 2009 (Qld)

Local Government Regulation 2012 (Qld)

Torres Strait Islander Land Act 1991 (Qld)

Torres Strait Islander Cultural Heritage Act 2003 (Qld)

Aboriginal Land Act 1991 (Qld)

Aboriginal Cultural Heritage Act 2003 (Qld)

Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984 (Qld)

Aboriginal and Torres Strait Islander Land Holding Act 2013 (Qld)

Native Title Act 1993 (Cth)

Land Act 1994 (Qld)

FINANCE AND RISK

Capital Cost

NIL

Operating Cost

NIL

Risk Assessment

- *Policies should be regularly reviewed to ensure statutory compliance and risk management.*

SUSTAINABILITY

Policies should be regularly reviewed to reflect Council's current operating model, any legislative changes and best practice.

CONCLUSION

As presented.

Ilario Sabatino

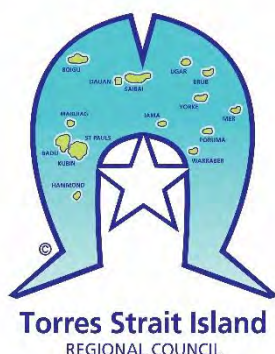
A/CEO

Julia Maurus

Manager Legal Services

ATTACHMENTS:

- 1. Existing PO19 Trustee Policy (June 2019)**
- 2. Proposed updated PO19 Trustee Policy**
- 3. Department of Resources paper on land transfers**



TRUSTEE POLICY

PO 19

Responsible Manager:	Chief Executive Officer
Head of Power:	<p><i>Local Government Act 2009 (Qld)</i> <i>Local Government Regulation 2012 (Qld)</i> <i>Torres Strait Islander Land Act 1991 (Qld)</i> <i>Torres Strait Islander Cultural Heritage Act 2003 (Qld)</i> <i>Aboriginal Land Act 1991 (Qld)</i> <i>Aboriginal Cultural Heritage Act 2003 (Qld)</i> <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984 (Qld)</i> <i>Aboriginal and Torres Strait Islander Land Holding Act 2013 (Qld)</i> <i>Native Title Act 1993 (Cth)</i> <i>Land Act 1994 (Qld)</i></p>
Authorised by:	Council resolution
Authorised on:	15 November 2018; updated 25 June 2019
Implemented from:	15 November 2018
Last Reviewed:	2019
Review History:	2019
Review Date:	30 June 2021
Corporate Plan:	<p><i>Art, Culture, People</i></p> <p>Collective understanding of both Traditional and State Law ensuring a Safe Community</p> <p>Provide a legal framework for Torres Strait Communities within the Torres Strait Island Regional Council municipality which addresses both State and Traditional Lore requirements</p> <p><i>Environment:</i></p>

Facilitate home ownership through active lobbying of State and Federal Government

Land-use planning for the Community in a controlled coordinated manner

Environmental and culturally significant landscapes are recorded, valued and protected

Economic Participation:

Full restoration of self-management and self-determination

1. POLICY STATEMENT

(a) Council is the Trustee of the Deed of Grant in Trust (DOGIT) for the following communities:

- Boigu Island
- Dauan Island
- Saibai Island
- Mabuiag Island
- Kubin Community, Moa Island
- St Pauls Community, Moa Island
- Kiririri (Hammond Island)
- Iama (Yam) Island
- Warraber (Sue) Island
- Poruma (Coconut) Island
- Masig (Yorke) Island
- Ugar (Stephens) Island
- Erub (Darnley) Island

(b) As Trustee, Council is committed to making land-related decisions for the benefit of islander inhabitants, taking into account Ailan Kastom.

(c) As a local government, Council is committed to providing a legal framework for Torres Strait Communities within the Torres Strait Island Regional Council municipality which addresses both State and Traditional Lore requirements.

2. SCOPE

This Policy applies to all local government employees, Councillors, contractors and agents of Council.

3. INTERPRETATION

Aboriginal Cultural Heritage has the same meaning as in the *Aboriginal Cultural Heritage Act 2003* (Qld)

Aboriginal Freehold means Aboriginal Land, transferred under Part 4 of the *Aboriginal Land Act 1991* (Qld)

Ailan Kastom and Ailan Lore (also know as Island custom) means, as defined in section 6 of the *Torres Strait Islander Land Act 1991* (Qld), the body of customs, traditions, observances and beliefs of Torres Strait Islanders generally or of a particular group of Torres Strait Islanders, and includes any such customs, traditions, observances and beliefs relating to particular persons, areas, objects or relationships

Division means an electoral division of the Torres Strait Island Regional Council local government area, and Divisional has a corresponding meaning

DOGIT means Deed of Grant in Trust and has the same meaning as in the *Land Act 1994* (Qld)

Future Act has the same meaning as in the *Native Title Act 1993* (Cth)

ILUA means Indigenous Land Use Agreement and has the same meaning as in the *Native Title Act 1993* (Cth)

LHA/Land Holding Act/Katter Lease means a perpetual lease under the *Aboriginal and Torres Strait Islander Land Holding Act 2013* (Qld)

Ordinary Freehold means the freehold option referred to in Part 2A of the *Torres Strait Islander Land Act 1991* (Qld) and the *Aboriginal Land Act 1991* (Qld)

RNTBC means Registered Native Title Body Corporate (also known as the Prescribed Body Corporate or PBC) and has the same meaning as in the *Native Title Act 1993* (Cth)

Torres Strait Islander Cultural Heritage has the same meaning as in the *Torres Strait Islander Cultural Heritage Act 2003* (Qld)

Torres Strait Islander Freehold means Torres Strait Islander Land, transferred under Part 4 of the *Torres Strait Islander Land Act 1991* (Qld)

4. NATIVE TITLE

- (a) Council recognises and respects traditional ownership and Ailan Kastom. Native title and Deed of Grant in Trust co-exist.
- (b) Council is committed to ensuring compliance with native title laws.
- (c) Council is dedicated to working with Registered Native Title Bodies Corporate in native title matters.
- (d) Where a DOGIT lease is proposed, the Trustee shall be a party to the relevant Indigenous Land Use Agreement that validates the grant of the proposed Trustee lease. This reflects the Trustee's responsibility to ensure compliance with the *Native Title Act 1993* (Cth) when leasing land.
- (e) Where an Infrastructure and Housing Indigenous Land Use Agreement (ILUA) applies, Council will undertake Future Acts in accordance with that ILUA process.
- (f) Council will use section 24JAA of the *Native Title Act* for Future Act validation only as a last resort, where consent-based validation is not reasonably practicable in the opinion of the Divisional Councillor.

- (g) Council will use section 24KA, 24HA, and 24NA of the *Native Title Act* for Future Act validation only where supported by the Divisional Councillor.

5. CULTURAL HERITAGE

- (a) Council acknowledges the value of Torres Strait Islander Cultural Heritage, Aboriginal Cultural Heritage and culturally significant places and landscapes.
- (b) Council is committed to ensuring compliance with cultural heritage laws.
- (c) Council is dedicated to working with cultural heritage bodies in cultural heritage matters.
- (d) Council supports processes to record, recognise and protect Torres Strait Islander Cultural Heritage and Aboriginal Cultural Heritage.

6. TRUSTEE DECISION-MAKING

- (a) As Trustee, Council will fulfil its responsibilities in an informed and effective manner.
- (b) DOGIT Trustees are not required under the *Torres Strait Islander Land Act 1991* (Qld) or *Aboriginal Land Act 1991* (Qld) to consult with or notify the community when considering an expression of interest to lease trust land. However, each Divisional Councillor must have comprehensive knowledge about the values of, and appropriate uses for, the DOGIT land, existing interests in the land, and community opinion about proposed leases for that DOGIT.
- (c) The type of community engagement that is appropriate for a proposed project or lease will be determined at the discretion of the Divisional Councillor.
- (d) A proposed Trustee decision that affects a specific DOGIT will not be tabled for Council's consideration unless it has the support of the Divisional Councillor.
- (e) Where the Divisional Councillor has a conflict of interest or material personal interest, the matter will be referred to the Mayor or Deputy Mayor for direction regarding appropriate consultation, including consideration of a community ballot option to confirm support for the proposal.
- (f) A Trustee resolution that affects a specific DOGIT may only be passed if the Divisional Councillor for that DOGIT is present and does not vote against the resolution. If the Divisional Councillor abstains from voting, the failure to vote is counted as a vote against the resolution. However, the Divisional Councillor's vote is not required if the Divisional Councillor has left the room due to a personal interest in the matter.
- (g) Development applications made to Council as local government may only be passed if the Trustee supports the proposed development. For DOGIT communities, this requires a Trustee resolution. For Torres Strait Islander Freehold and Aboriginal Freehold communities (non-DOGIT communities), this requires verbal or written advice from the

trustee for the land confirming support for or requesting consent to the proposed development.

7. LEASING GENERALLY

- (a) Council will raise the awareness of potential lessees about leasing options and processes.
- (b) Where a DOGIT lease is proposed, the Trustee shall be a party to the relevant Indigenous Land Use Agreement that validates the grant of the proposed Trustee lease. This reflects the Trustee's responsibility to ensure compliance with the *Native Title Act 1993* (Cth) when leasing land.
- (c) DOGIT lease rent revenue is to be handled in accordance with PO 18 Reserve Policy and PR-PO4-15 General Reserve Procedure.

8. COMMERCIAL LEASING

- (a) Council, as owner of most of the buildings and houses in each community and as Trustee of DOGIT land, understands that long-term leases:
 - i. provide a suitable arrangement with the different organisations and businesses providing services within the communities;
 - ii. provide a revenue stream for Council; and
 - iii. provide certainty to Council and to the Lessee.
- (b) Council is committed to effective, equitable and efficient management of Council's assets and land which ensures appropriate returns and protects Council's interest while recognising the rights of organisations and businesses occupying these assets and land.

9. HOME OWNERSHIP

- (a) Council is committed to facilitating private home-ownership within the Torres Strait Island Regional Council municipality.
- (b) Council will work with the Department of Housing and Public Works, the Department of Aboriginal and Torres Strait Islander Partnerships and the Department of Natural Resources, Mines and Energy to facilitate private home-ownership and the resolution of *Land Holding Act* ("Katter") perpetual lease interests in the region.
- (c) Trustee decisions about *Land Holding Act* matters are to be made as follows:

Type of decision	How decision is to be made
Confirm the area or boundary of an LHA/Katter lease	Divisional Councillor (note clause 6(e))

Recommend the grant of an LHA/Katter lease	Chief Executive Officer (authority delegated by Council in November 2018 for the CEO to execute all documents necessary to give effect to Land Holding Act lease interests), with advice provided to the Mayor and the Divisional Councillor
Consent to a transfer or surrender of an LHA/Katter lease	Council resolution (note clause 6(e))
Consent to a sublease of an LHA/Katter lease	Council resolution (note clause 6(e))

- (d) Council will work with stakeholders to facilitate home-ownership leases.
- (e) Council, as Trustee of each Deed of Grant in Trust, will provide an opportunity for the community to consider whether it is appropriate to make Ordinary Freehold available in the community.

10. LAND TRANSFERS

- (a) Council is committed to supporting the full restoration of self-management and self-determination in the Torres Strait Island Regional Council local government area.
- (b) Council envisions the transfer of land currently held by Council under Deed of Grant in Trust to Torres Strait Islander Freehold or Aboriginal Freehold (as the case may be), on a community-by-community basis, when the time is right for each community.
- (c) Land transfers will be achieved through collaboration between Council, the State, communities, Registered Native Title Bodies Corporate and other stakeholder bodies to ensure that government interests in essential services, community infrastructure and social housing are secured and to ensure the continuation of vital services to each community.

11. PROCEDURE

This Policy shall be achieved with reference to the following:

- Queensland Government *Leasing Torres Strait Islander DOGIT Land: Manual for Trustees* and *Leasing Aboriginal DOGIT Land: Manual for Trustees*
- PO19-PR1 Native Title and Cultural Heritage Procedure
- PO19-PR2 Leasing Procedure
- PO 18 Reserve Policy
- PR-PO4-15 General Reserve Procedure

- Statement of Principles for Private Structures (Schedule A)
- PO2-PR1 Code of Conduct
- TSIRC Meeting Handbook

AUTHORISATION

This document was duly authorised by Council as the Torres Strait Island Regional Council Trustee Policy (PO 19) on 25 June 2019, and shall hereby supersede any previous policies of the same intent.

SCHEDULE A

STATEMENT OF PRINCIPLES FOR PRIVATE STRUCTURES (HOUSES, SHEDS AND ZAR-ZARS)

Note: these principles do not apply to social housing lots.

1. Council recognises and respects traditional ownership and Ailan Kastom. Native title and Deed of Grant in Trust co-exist.
2. Council has a duty to ensure the safety of all community members on local government-controlled areas. Local government-controlled areas include roads, foreshores, beaches, cemeteries, jetties and parks (but do not include residential lots, private commercial premises or government premises such as school reserves).
3. Beaches and foreshores are for everyone's use. They cannot be privatised or owned exclusively. Nevertheless, where Ailan Kastom is observed, anyone accessing the beach or foreshore should acknowledge the traditional owner of the area.
4. It is up to the whole community to decide on where future development will happen. Council, as trustee for the land (except at Badu and Mer), is responsible for making decisions for the benefit of the community.
5. Where native title rights exist, Council recognises the rights of native title holders to build houses, sheds and zar-zars on the land. Other community members can also seek permission to build houses, sheds and zar-zars. However, before building anything, native title holders and community members should:
 - a. Apply to Council for a lease; and
 - b. Ask the PBC for a letter confirming permission to build there.Council will then advise whether there are any legal restrictions on building in the particular area (for example because of coastal management, flood areas or road reserves).
6. Native title holders and community members who build houses, sheds and zar-zars are responsible for looking after them to make sure they do not create a safety risk to the community.
7. Following these principles will allow respect for traditional interests and provide a clear process for future development and private ownership.



TRUSTEE POLICY

PO 19

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Corporate Plan:	<i>Art, Culture, People</i> Collective understanding of both Traditional and State Law ensuring a Safe Community Provide a legal framework for Torres Strait Communities within the Torres Strait Island Regional Council municipality which addresses both State and Traditional Lore requirements <i>Environment:</i>

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(b) Torres Strait Islander freehold land at Mer (Murray Island) is held in trust by Mer Gedkem Le (Torres Strait Islanders) Corporation RNTBC.

(c) Torres Strait Islander freehold land at Badu Island is held in trust by Mura Badulgal (Torres Strait Islanders) Corporation RNTBC.

~~(b)~~(d) As Trustee, Council is committed to making land-related decisions for the benefit of islander inhabitants, taking into account Ailan Kastom.

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a Trustee resolution. For Torres Strait Islander Freehold and Aboriginal Freehold communities (non-DOGIT communities), this requires verbal or written advice from the trustee for the land confirming support for or requesting consent to the proposed development.

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(a) Council is committed to facilitating private home-ownership within the Torres Strait Island Regional Council municipality.

(b) Council will work with stakeholders to facilitate home-ownership leases.

~~(a)~~ **Land Holding Act ("Katter") leases**

(c) Council will work with the Department of Housing and Public Works, the Department of Aboriginal and Torres Strait Islander Partnerships and the Department of Natural Resources, Mines and Energy to facilitate private home-ownership and the resolution of *Land Holding Act* ("Katter") perpetual lease interests in the region.

(d) The steps required for the resolution of a Katter lease entitlement are:

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(f) In November 2018, the CEO under delegated authority confirmed the peppercorn divestment of social housing assets for the purpose of resolving LHA lease entitlements.

~~(d)(a) Council will work with stakeholders to facilitate home ownership leases.~~

99-year home-ownership leases

(g) The steps required for a 99-year DOGIT lease are:

- i. Expression of Interest (Form 1) submitted to Trustee – form on DNRME website
- ii. Trustee assesses EOI – approved/not approved
- iii. Development application and survey required – DATSIP completes
- iv. Applicant submits loan application, requires preapproval – TSRA
- v. DHPW inspects the house and provides the sale price and list of maintenance
- vi. Trustee offers the applicant an Agreement to Lease
- vii. Applicant accepts and signs the Agreement to Lease
- viii. Agreement to Lease conditions must be met (includes native title compliance)
- ix. DHPW delivers maintenance on the house
- x. Lease signed and money paid to Trustee
- xi. Lease registered with Land Titles Office
- xii. Registered lessee is now a home-owner

Ordinary freehold option

(h) Council, as Trustee of each Deed of Grant in Trust, will provide an opportunity for the community to consider whether it is appropriate to make Ordinary Freehold available in the community.

House sale price

(i) In June 2019, the Trustee set the sale price for social housing on ordinary freehold land and home ownership (99-year) lease land for the purpose of sections 28R and 91–93 of the *Torres Strait Islander Land Act 1991* (Qld) and sections 32R and 126–128 of the *Aboriginal Land Act 1991* (Qld), as follows:

<u>House type</u>	<u>New condition</u>	<u>Good condition</u>	<u>Fair condition</u>
<u>1-bedroom detached</u>	<u>\$55,000</u>	<u>\$40,000</u>	<u>\$30,000</u>
<u>2-bedroom detached</u>	<u>\$65,000</u>	<u>\$50,000</u>	<u>\$35,000</u>
<u>3-bedroom detached</u>	<u>\$75,000</u>	<u>\$60,000</u>	<u>\$45,000</u>
<u>4-bedroom detached</u>	<u>\$90,000</u>	<u>\$75,000</u>	<u>\$60,000</u>
<u>5-bedroom detached</u>	<u>\$100,000</u>	<u>\$85,000</u>	<u>\$67,000</u>
<u>6-bedroom detached</u>	<u>\$110,000</u>	<u>\$95,000</u>	<u>\$75,000</u>

7-bedroom detached	\$120,000	\$100,000	\$80,000
2-bedroom duplex	\$50,000	\$40,000	\$25,000
3-bedroom duplex	\$55,000	\$45,000	\$35,000

Pricing is subject to review every three years based on the consumer price index.

(i) In November 2018, the CEO under delegated authority confirmed the peppercorn divestment of social housing assets for the purpose of resolving LHA lease entitlements.

10. LAND TRANSFERS

(a) Council is committed to supporting the full restoration of self-management and self-determination in the Torres Strait Island Regional Council local government area.

(b) Council envisions the transfer of land currently held by Council under Deed of Grant in Trust to Torres Strait Islander Freehold or Aboriginal Freehold (as the case may be), on a community-by-community basis, when the time is right for each community.

~~(b)~~(c) The transfer of land recognises the spiritual, social, historical, cultural and economic importance of land to Torres Strait Islanders.

(d) Under the Torres Strait Islander Land Act 1991 (Qld) and Aboriginal Land Act 1991 (Qld), land can be transferred to following entities:

- i. A Registered Native Title Body Corporate (RNTBC)
- ii. A qualified corporation registered under the Corporations (Aboriginal and Torres Strait Islander) Act 2006
- iii. An existing Land Trust

(e) Each land transfer must ensure the continuation of vital services to the community and must secure government interests in essential services, community infrastructure and social housing.

(f) The land transfer process is run by Queensland's Department of Resources. Council will assist the Department to progress ~~it~~ and transfers will be achieved through collaboration between Council, ~~by~~ participating in land transfer consultations with the State, communities, Registered Native Title Bodies Corporate and other stakeholder bodies. ~~to ensure that government interests in essential services, community infrastructure and social housing are secured and to ensure the continuation of vital services to each community.~~

i. —

11. PROCEDURE

This Policy shall be achieved with reference to the following:

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- Queensland Government *Leasing Torres Strait Islander DOGIT Land: Manual for Trustees* and *-Leasing Aboriginal DOGIT Land: Manual for Trustees*
- PO ~~1929~~-PR1 Native Title and Cultural Heritage Procedure
- PO ~~1929~~-PR2 Leasing Procedure
- PO 18 Reserve Policy
- PR-PO4-15 General Reserve Procedure
- Statement of Principles for Private Structures (Schedule A)
- PO2-PR1 Code of Conduct
- ~~TSIRC Meeting Handbook~~ Meeting Procedure Policy
- Standing Orders Policy

AUTHORISATION

This document was duly authorised by Council as the Torres Strait Island Regional Council Trustee Policy (PO 19) on ~~25 June 2019~~ INSERT DATE, and shall hereby supersede any previous policies of the same intent.

Date:

Cr ~~Fred Gela~~ Phillemon Mosby

Mayor

SCHEDULE A

STATEMENT OF PRINCIPLES FOR PRIVATE STRUCTURES (HOUSES, SHEDS AND ZAR-ZARS)

Note: these principles do not apply to social housing lots.

1. Council recognises and respects traditional ownership and Ailan Kastom. Native title and Deed of Grant in Trust co-exist.
2. Council has a duty to ensure the safety of all community members on local government-controlled areas. Local government-controlled areas include roads, foreshores, beaches, cemeteries, jetties and parks (but do not include residential lots, private commercial premises or government premises such as school reserves).
3. Beaches and foreshores are for everyone's use. They cannot be privatised or owned exclusively. Nevertheless, where Ailan Kastom is observed, anyone accessing the beach or foreshore should acknowledge the traditional owner of the area.
4. It is up to the whole community to decide on where future development will happen. Council, as trustee for the land (except at Badu and Mer), is responsible for making decisions for the benefit of the community.
5. Where native title rights exist, Council recognises the rights of native title holders to build houses, sheds and zar-zars on the land. Other community members can also seek permission to build houses, sheds and zar-zars. However, before building anything, native title holders and community members should:
 - a. Apply to Council for a lease; and
 - b. Ask the PBC for a letter confirming permission to build there.Council will then advise whether there are any legal restrictions on building in the particular area (for example because of coastal management, flood areas or road reserves).
6. Native title holders and community members who build houses, sheds and zar-zars are responsible for looking after them to make sure they do not create a safety risk to the community.
7. Following these principles will allow respect for traditional interests and provide a clear process for future development and private ownership.

Land Transfer Process – *Torres Strait Islander Land Act 1991*

Legislative Provisions

The Department of Resources is responsible for administering the *Torres Strait Islander Land Act 1991* (TSILA).

The TSILA provides for the grant of inalienable freehold (ie. the land can't be sold) which is held in trust for the benefit of Torres Strait Islander people.

Under the TSILA the department is able to transfer the following 'types' of land to Torres Strait Islanders:-

- Deed of Grant in Trust land (DOGIT)
- Torres Strait Islander Reserve Land
- Available State land (declared to be transferable).

The transfer of land under the TSILA recognises the spiritual, social, historical, cultural and economic importance of land to Torres Strait Islanders.

Land Transfer Process

The TSILA allows land to be transferred to following entities:-

- A Registered Native Title Body Corporate (RNTBC)
- A qualified corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSIA)
- An existing Land Trust.

The transfer process under the TSILA is not about native title and does not affect native title.

Transfer of township and non-township areas require different considerations to be addressed.

Existing registered interests in the transferable lands continue post transfer e.g. social housing, local government/state infrastructure leases and any interests held by service providers.

The Minister needs to be reasonably satisfied that appropriate arrangements are in place to ensure a continued provision of services to communities on the land after it is transferred.

The transfer process has two components – **Administration** and **Consultation**.

The **Administrative** component requires undertaking an evaluation of the land proposed for transfer, and includes:-

- o identifying existing registered interests over the land such as trustee leases, leases to individuals or easements;
- o identifying any future requirements the local government may have for use of the land
- o establishing access to land and any survey requirements;
- o seeking views from relevant State and Commonwealth agencies and service providers in relation to their interests or future requirements for service provision.

The **Consultation** component requires that before making an appointment of a grantee for the subject land, the department, on behalf of the Minister must consult with and consider the views of Torres Strait Islander people particularly concerned with the land.

Consultation meetings will be arranged in consultation with representatives of the registered native title body corporate and Council.

When consulting, the Minister and his representatives must have regard to Torres Strait Islander traditions applicable to the land.

All views on the transfer will be taken into consideration.

Following community consultation:-

- Notice of the Minister's intention to appoint the nominated grantee is published in a local newspaper in which the land is located. It provides a 28 day period for Torres Strait Islanders particularly concerned with the land to make written representations regarding the proposed grantee appointment.
- Relevant information and views are collated from the consultation and provided to the Minister for consideration, as well as any representations received in response to the public notice.
- The Minister makes a decision to appoint a grantee to hold the land.
- Subject to the Minister's appointment of a grantee and directing that title issue for the land, the Governor in Council's approval of a deed will be sought and the grant of the land will occur thereafter.

Post Land Transfer

Council remains the local governing authority for the land.

The Grantee would still be subject to Local Government, State and Commonwealth laws in relation to the land.

The Grantee could issue leases or other interests, such as permits or licences to individuals or businesses over the land.

The Grantee would need to address native title for future acts over the land.

In dealing with the land, the Grantee must give consideration to the people for whom the land is held in benefit for, as Council currently does as trustee.

Going Forward

1. Get Council's support and views as trustee and local government in regards to the broad process prior to moving forward into community consultation.
2. Provide Council with a schedule of Saibai and Ugar DOGITs (lot/plan descriptions) proposed for transfer and seek Council's views on registered/non-registered interests, tenure options and roads.
3. Schedule separate and joint meetings with Council and RNTBC Directors for discussion on schedule of land and planning for community consultation.
4. Schedule community consultation meetings.